

FAQ's about Senate Bill 8/House Bill 354

Revised May 22, 2014:

1. **Do schools have to practice all four types of drills (fire, severe weather, lockdown, and earthquake) in the first month of school and all four again in January?** At a minimum, they must practice one (1) severe weather drill, one (1) earthquake drill and one (1) lockdown drill within the first thirty (30) instructional days of each school year and again during the month of January. Since fire drills are practiced on a monthly basis already, practicing all four drills each time (August and January) would be best practice.

* In the case of inclement weather causing schools to miss days in January, districts should complete the January drills as soon as they can safely practice them, with written explanations for the delay.

2. **What is the process for reporting to KDE by November 1 of each school year?** Districts should send superintendent verification of compliance to the law to the Kentucky Department of Education by November 1 of each school year that all schools within the district are in compliance with the requirements of the law. This submission will occur as assurances within ASSIST.
3. **Once a school has practiced the drills in the required time period, are they reported to KDE by school or district?** The Superintendent (or a duly designated representative) should complete the CDIP assurances for the district. KDE will monitor only the district assurances to ensure compliance.
4. **Some districts had problems submitting the assurances in ASSIST in 2013. Has this been resolved?**
Yes, the problem with ASSIST occurred with districts being not clear on how to submit the assurances in the safe school report. Completion of the report does not submit the report, and some districts failed to click on the "submit" button further down on the page. ***Using the submit button is required for the report to be received by KDE.***
5. **Are schools required to have a new emergency plan adopted by the start of school?**
No, the first revised emergency plan had to be adopted by the school's SBDM Council by November 1, 2013. After that, the emergency plan should be reviewed and updated annually before the start of school. The principal shall discuss the emergency plan with all school staff and prior to the first instructional day of each school year for the school year, and shall document the time and date of any discussion.

6. **Is a school's SBDM council required to create a policy related to adopting their Emergency plan?** *Yes, Senate Bill 8, section 8, (2), (i) states that "the school council shall adopt a policy to be implemented by the principal in the following additional areas: ... 9. Adoption of an emergency plan as required in Section 1 of this Act". KDE has posted a sample emergency plan SBDM policy on its [School Based Decision Making webpage](#).*

7. **Should each school's emergency plan be released in response to an Open Records request?**

No, the school and district emergency plans are exempt from the Open Records according to the statute. "KRS 158.162(2)(e) excludes the emergency plan and diagram of the facility from the Open Records Act. As well, the Open Records Act has its own exceptions to public disclosure of documents which could also apply to a school emergency plan. KRS 61.878, the Open Records Act exceptions statute, includes KRS 61.878 (1) (m) which exempts from Open Records Act's disclosure requirements "those records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act...." ...But, on This provision in the Open Records exceptions, KRS 61.878(1)(m), has additional information and requirements in the statute relevant to qualification under this exception. If a request under Open Records for the emergency plan or the diagram of the facility is denied under the Open Records Act exception in KRS 61.878(1)(m) instead of under KRS 158.162(2)(e), the public agency has the responsibility to provide the notice to the Attorney General and to the Kentucky Office of Homeland Security that is required by that provision of the Open Records Act. KDE recommends that a public agency, which denies an Open Records request for these documents cite both KRS 158.162(2)(e) and 61.878(1)(m) and provide the notice required under 61.878(1)(m) to ensure full compliance with these statutes

8. **Safety plans are not subject to open records, however, they have to be approved by the council. How does the council approve something that is not open? Can they go into closed session to discuss it?"**

Yes, they may go into closed session to discuss it, because the emergency plan they are discussing is exempted from disclosure under the Open Records statutes, pursuant to the language of KRS 158.162, and the Open Meetings statutes, KRS 61.810(1)(k), allow a closed session for the part of a meeting involving where discussion of information that is required by federal or state law to be kept confidential documents that are exempted from Open Records requirements is taking place. The Open Meetings Act also allows a public agency to go into closed session for discussion of a document exempt from disclosure under Open Records Act's KRS 61.878(1)(m) (the public safety documents) specifically. See KRS 61.810(1)(k) or (1)(m). KDE recommends the school councils cite KRS 158.162, 61.810(1)(k), 61.810(1)(m), 61.878(1)(m), and Open Meetings decisions 10-OMD-128, 98-OMD-142, and 97-OMD-139 when going into closed session to discuss and deliberate adoption of an emergency plan. Also the minutes of this SBDM meeting should not contain the actual Emergency Management Plan or facility diagram, since the minutes are accessible by Open Records requests also. If the council did choose to

attach the emergency plan and facility diagram to the meeting minutes, the public agency responding to the Open Records request would need to ensure that these documents (the emergency plan and the facility diagram) were excluded from the public agency's response to an Open Records request. Citation by the school council of all the possibly applicable Open Meetings Act exceptions when going into closed session to discuss adoption of the emergency plan will be helpful if there is an Open Meetings Act complaint submitted to the Kentucky Attorney General for review. It is important to remember that the Open Meetings Act allows the public agency (in this case, the school council) to go into closed session to discuss the emergency plan but the council has to return to open session to actually take action (i.e., vote) on adopting the emergency plan.

9. **Is there guidance available to help schools understand and meet the requirements of the law?** Yes, the Guidelines for SB 8/HB 354 Emergency Management Planning document is found on [KDE's Safe Schools webpage](#).
10. **Where can we get resources to help local boards to review crime and disaster prevention designs when constructing or renovating a school building?** KDE's District Facilities Branch has collaborated with the Kentucky Center for School Safety to develop a checklist for this purpose. This document titled "**Crime Prevention Through Environmental Design**" is posted on our KDE Safe Schools webpage.
11. **Where can we get resources to assist us in the planning, implementation, and deployment of our emergency plan?** Resources are available on [KDE's Safe Schools website](#) within the [Guidance for SB 8/HB 354](#) document, and also in the [Emergency Management Resource Guide](#) on the Kentucky Center for School Safety's webpage.
12. **Who is available to help with questions about this law?** If you have any questions regarding implementation, please contact: [Libby Taylor](#) or [Tom Edgett](#) at the Kentucky Department of Education, Division of Student Success at 502-564-4772.

If you need technical assistance for deployment, contact our collaborating partner, the [Kentucky Center for School Safety](#), Jon Akers, Director, jon.akers@eku.edu at 877-805-4277.

For specific issues or questions about ASSIST, please contact [Ginger Kinnard](#) at 502-564-5130.